

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Matt Runningshield,

Civ. No. 12-1467 (JNE/LIB)

Plaintiff,

v.

REPORT AND RECOMMENDATION

State of Minnesota et al,

Defendants,

This matter came before the undersigned United States Magistrate Judge pursuant to a general assignment, made in accordance with the provisions of 28 U.S.C. § 636(b)(1)(A), upon Plaintiff's motion to voluntarily dismiss this action. For the reasons outlined below, the Court recommends that Plaintiff's motion be granted.

Federal Rule of Civil Procedure 41(a)(1)(A) provides that a plaintiff may dismiss his action without a court order by filing "a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment" or a "a stipulation of dismissal signed by all parties who have appeared." Unless otherwise specified, the dismissal is without prejudice. Fed. R. Civ. P. 41(a)(1)(B).

Here, all but two of the Defendants have already filed an answer. All of these Defendants, however, have provided that they "do not object to Plaintiff's request," (Defs.' Mem. of Law in Response [Docket No. 21] at 1), and Plaintiff represents that he has "come into an agreement that [he] would voluntar[ily] dismiss his case." (Motion for Voluntary Dismissal [Docket No. 20] at 1). The remaining two defendants have not yet filed an answer or made an appearance in this action.

Based on the foregoing, and all the files, records and proceedings herein,

IT IS HEREBY RECOMMENDED that:

- 1) Plaintiff's motion to voluntarily dismiss [Docket No. 20] be granted;
- 2) This action be dismissed without prejudice and without costs to either party.

Dated: January 14, 2013

s/Leo I. Brisbois
LEO I. BRISBOIS
United States Magistrate Judge

N O T I C E

Pursuant to Local Rule 72.2(b), any party may object to this Report and Recommendation by filing with the Clerk of Court, and serving all parties **by January 28, 2013**, a writing that specifically identifies the portions of the Report to which objections are made and the bases for each objection. A party may respond to the objections within fourteen days of service thereof. Written submissions by any party shall comply with the applicable word limitations provided for in the Local Rules. Failure to comply with this procedure may operate as a forfeiture of the objecting party's right to seek review in the Court of Appeals. This Report and Recommendation does not constitute an order or judgment from the District Court, and it is therefore not directly appealable to the Court of Appeals.